

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|---|---|---------------------------------|
| JOSEPH CLIFFORD MALCOMB, |) | |
| Plaintiff, |) | |
| |) | Civil Action No. 11 - 212 |
| v. |) | |
| |) | District Judge Arthur J. Schwab |
| RACHEL DIETZ, Ambridge Police Office; |) | |
| CHIEF OF POLICE ROMUTIS, Ambridge |) | |
| Police Chief; MARTIN V. SCHULTY, |) | |
| Magistrate Judge; JANET DOLAN, Director |) | |
| of Pen [sic] Dot; and JOHN DOHANICH, |) | |
| Common Pleas Judge, |) | |
| |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM ORDER

The above captioned case was initiated by the filing of a motion to proceed *in forma pauperis* (ECF No. 1) on February 16, 2011, and was referred to a united states magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the local rules of court.

On November 3, 2011, the Magistrate Judge filed a Report and Recommendation (ECF No. 23) recommending that the Motion to Dismiss filed by Defendants John Dohanich and Martin V. Schulte (incorrectly misspelled as "Schulty" in the Complaint) (ECF No. 14) be granted and that the Complaint be dismissed with prejudice against the remaining Defendants under 28 U.S.C. § 1915A. Plaintiff filed Objections to the Report and Recommendation on November 7, 2011 (ECF No. 26). Plaintiff's Objections do not undermine the recommendation of the Magistrate Judge.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

AND NOW, this 14th day of November, 2011;

IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendants Dohanich and Schulte (ECF No. 14) is **GRANTED**.

IT IS FURTHER ORDERED that the Complaint be dismissed with prejudice against the remaining Defendants under 28 U.S.C. § 1915A as it would be futile to allow him the opportunity to amend.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF. No. 23) dated November 3, 2011, is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: Joseph Clifford Malcomb, BW3347
SCI-Greensburg
165 S.C.I. Lane
Greensburg, PA 15601